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MassDEP Organics Subcommittee Meeting Summary July 9, 2012

The Organics Subcommittee, which is a long-standing subcommittee of MassDEP's Solid Waste Advisory Committee, has been holding monthly meetings since February, 2012 focused on developing a waste ban on commercial and institutional food waste, along with other supporting strategies. More information, including meeting summaries, can be found at <http://www.mass.gov/dep/public/committee/swacorg.htm>. Our work plan includes developing a proposed framework by September. This meeting focused on reviewing and discussing the proposed draft framework dated July 9, 2012. If you need a copy of the proposed approach, please contact John Fischer at john.fischer@state.ma.us.

Material Definition:

For purposes of the waste ban, MassDEP proposed that organic material would include vegetative material, food material, agricultural material, and leaves and yard waste, but not biodegradable paper and products. Leaves and yard waste would continue to be banned from any source, but the other materials would be limited to commercial and institutional sources only. Sumner Martinson clarified that MassDEP expects vegetative material to be defined as part of food material in the final 310 CMR 16.000 regulations. In that case, this proposal would change to match those regulations. Sumner also clarified that food contaminated paper is included within the proposed regulatory definition of food material.

Comments and Discussion:

- Will the one ton/week tonnage threshold count all of the organic materials, or just food materials?
 - MassDEP's intent is for this to be based on food material generation only, but we are willing to consider alternatives.
- When writing the regulations, will MassDEP consider the US Composting Council's materials definitions?
 - MassDEP can consider that information, but we will want these material definitions to be consistent with Massachusetts solid waste regulations.
- Should agricultural material be included within this definition? Is agricultural material disposed as solid waste now?
 - There may be some potential for additional diversion, but the focus is on additional food material diversion. MassDEP will reconsider whether agricultural material should be part of the banned material definition.

- The group discussed whether bio-degradable products should be included in the ban. Some facilities can accept these materials, but others may not. In addition, there may be confusion between what is bio-degradable and what is not.
- MassDEP should not include compostable paper within the ban, as this would not be accepted (or would be a contaminant) for animal feed operations, which is a higher value use than composting. Generators preparing food material for animal feed would need to separate compostable paper from the food materials.
- Would the ban apply to out of date or spoiled packaged food products (e.g., frozen meat in plastic packaging.)?
 - We have not said one way or the other yet. This depends in part on the capability or processing infrastructure to de-package and process packaged product. This has also been raised as an issue for food pantries/donation programs.
 - It was suggested that including packaged food in the scope of the ban would help to change business practices to reduce the amount of spoiled packaged food or handle/package it differently to enable diversion from disposal.
- England sends paper and yard waste to windrow composting. The food goes to energy. Highest grade digested material then goes to crops. A commercial business has the responsibility to remove contaminants. A strong ban is necessary to drive the market to create the infrastructure.
- If I wanted to send food waste to pigs can I do it under these rules?
 - Yes that would be allowed. There are agricultural requirements for food waste for animal feed. If you take in meat you have to cook it or process it first before feeding it to the animals.
- We will be creating new/more products by pulling organic materials out of the waste stream. There have to be strong markets for that product. This relates back to what materials are sent to compost/AD facilities – they have to be acceptable for the products being produced.
- There will have to be coordination between the generator, the hauler, and the receiving facility to determine what materials they can handle and to address contaminants. The private industry will work it out between what is needed for specific facilities and processes.

Businesses/Institutions Subject to the Ban

MassDEP proposed that businesses and institutions (any sector) that generate more than one ton of food material/week would be subject to the ban. MassDEP estimates that this would include approximately 3,000 entities, many of which are already diverting food waste. MassDEP would publish “rule of thumb” guidance for businesses by sector that would be subject to the ban and is interested in working with trade associations and other stakeholders to refine these estimates.

Comments and Discussion:

- How would the ban apply to chains with multiple locations?
 - In these cases, the generation quantity would be per location, not for the chain as a whole.
- How would the ban apply to a resort or mall that is owned by a single entity but that has many small restaurants that don’t meet the ban individually, but would meet the threshold together.

- This would likely be determined based on how the waste is managed and contracted for and whether the businesses are separate businesses or part of the same entity.
- How would the ban apply to apartments, condominiums, and nursing homes? What would be considered residential versus commercial.
 - Apartments and condos would not be included in the ban but nursing homes would be, as they are institutional. Hotels would be considered commercial as well.
- I would like to see this as broad as possible to capture multiple generators. Is it one ton per week or 52 tons/year?
 - As proposed, it is one ton/week.
- What size of restaurant creates one ton/week? Would this include post consumer food waste, i.e. plate scrapings?
 - MassDEP currently uses a factor of 3000 lbs/employee/year to estimate food waste generation for restaurants. If you are fast food restaurant then it is a totally different situation. MassDEP is interested in working with stakeholders to refine this factor or develop an alternate factor that would be based on number of seats or meals served.
- MassDEP will develop a frequently asked questions document to clarify how the ban would apply to the various commercial and institutional scenarios raised during the meeting.
- It is important to keep process as simple as possible. It is important that this ban is perceived as simple by public then it is much more likely to be accepted.
 - MassDEP agrees with this goal, although there are tradeoffs between simplicity and tailoring the fit of the ban.
- This ban should be seen as the first step to eventually include residential food waste as well to ensure that more food waste is diverted.

Solid Waste Facility Action Level

MassDEP proposed an action level of 10% commercial and institutional organic material by volume for purposes of waste ban implementation/enforcement at solid waste facilities. Any commercial load exceeding that percentage would be documented as a failed load with a notice to the hauler, regardless of whether the generator(s) generate more than one ton of food waste/week. The solid waste facility would record the generator name and send generator notice if it can identify load as primarily from one source. For more information on the waste ban regulations and guidance, please visit the MassDEP web site at <http://www.mass.gov/dep/recycle/solid/wastebans.htm>.

Comments and Discussion:

- Would the food waste ban requirement be waived if transport costs become prohibitive due to limited capacity?
 - No, MassDEP would not expect to waive the ban requirements because of limited capacity. Ensuring that there is sufficient capacity is one of the key factors that MassDEP considers in proceeding with the ban. However, as discussed in previous meetings, there is a wide range of solutions and capacity to deal with

food materials, including reducing food waste in the first place, food donation, animal feed, on-site processing equipment, and a range of existing and proposed composting and anaerobic digestion facilities. The ban would be implemented on a statewide basis; there would not be any regional exemptions.

- How will MassDEP pursue waste ban enforcement for a truck that contains more than 10 percent of food waste by volume, but is from multiple generators?
 - Mixed loads require communication with the hauler, and between the hauler and its customers, to determine what customers are on the route, and whether there are any that may generate more than 1 ton of food waste per week. This can also be addressed if other materials in the load identify business generators (e.g., cardboard boxes with shipping labels).
- 10% by volume is a lot of material and hard to identify. How do you propose to actually identify this? Could this be done on a weight basis instead?
 - That is something we look at for all banned materials, but can be different if it is liquid then it is hard to identify. MassDEP would develop guidance materials for what failed loads containing large amounts of food waste look like. It would need to be done on a volume basis, as there is no ability to weigh portions of a trash load.
- Would the facility receive enforcement if it receives a failed load?
 - As with the current waste bans, a solid waste facility is not in violation if it receives a failed load. The facility's compliance is determined based on whether it follows the requirements of its waste ban plan, which is part of each facility's permit.

Voluntary Certification Program

To help clarify what businesses/institutions are compliant with the organics ban, MassDEP proposed a voluntary certification program, through which businesses/institutions subject to the ban could provide brief information to MassDEP explaining how they are complying with the ban. This would be a one-time notification, as long as they continue to remain in compliance. Businesses/institutions that certify would not be subject to MassDEP enforcement for initial violation. Instead, MassDEP would first contact them to verify their organics diversion program status.

Comments and Discussion:

- Would MassDEP require tracking/reporting of organic waste produced by these certified businesses?
 - No, we are proposing to only ask for a one-time certification to keep this simple and minimize the burden and time commitment for businesses to participate. It is valuable for businesses to know this information and track it for their own purposes, but we are not proposing to request it.
- Could MassDEP supply computer tools online for tracking food waste generation and management?
 - MassDEP will consider what tools we could provide to help businesses and institutions determine how much food waste they are generating and how it is being managed.
 - The EPA provides a food waste tracking log:
<http://www.epa.gov/epawaste/conserve/materials/organics/pubs/food-waste-log.pdf>

- Why not make this certification compulsory to get better information on business compliance?
 - The waste ban regulations do not give MassDEP authority to require certification and reporting from waste generators.
- The certification part has been a good driver for supermarkets and would be good for the other sectors. I think it would be good to include recycling as part of this certification.

Next Steps and Next Meeting

MassDEP will revise the proposed approach based on feedback received and will develop a frequently asked questions document to address questions about different scenarios relative to business and institutional waste generation.

The next meeting is scheduled for August 20, 10AM-12PM at MassDEP's Boston office, 2nd floor conference room.

Anyone who wants to be added to the Organics Subcommittee email list, or who has additional questions or comments, should contact John Fischer at john.fischer@state.ma.us.